



***MINUTES OF THE ONE-HUNDRED-AND-EIGHTY-FIFTH  
MEETING OF THE MERIT BOARD – August 22, 2012***

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***State Universities Civil Service System Office  
1717 Philo Road, Suite 24  
Urbana, Illinois 61802  
&  
(Video Conference)  
University of Illinois at Chicago  
College of Pharmacy  
Room 270  
833 South Wood Street  
Chicago, Illinois  
&  
(Video Conference)  
Southern Illinois University Carbondale  
Morris Library  
Conference Room, 1<sup>st</sup> Floor  
605 Agricultural Drive  
Carbondale, IL***

Chair Maitland called the meeting to order at 10:04 a.m.

Members present at the primary meeting location were: Karen Hasara, representing the University of Illinois; Robert T. Marshall, Jr., representing Northern Illinois University; Lorine Samuels, representing Governors State University; and Robert D. Webb, representing Eastern Illinois University.

Members present at the Chicago videoconference location were: Vice Chair James D. Montgomery, representing the University of Illinois; Lyneir Cole, representing Western Illinois University; and Anthony Young, representing Chicago State University.

Members absent were: Joanne Maitland, Chair, representing Illinois State University; Marvin Garcia, representing Northeastern Illinois University; Patricia Brown Holmes, representing the University of Illinois; and Donna Manering, representing Southern Illinois University.

Also present were: Lewis T. (Tom) Morelock, Executive Director; Abby K. Daniels, Legal Counsel and Legal Services Manager; and Julie Benedict, Chair of the State Universities Civil Service Advisory Committee. Various other university employees and University System Office staff were also in attendance.

### ***Consideration of participation by other Merit Board Members, not physically present at meeting site***

No members had requested to participate by teleconference.

### ***Public Comments***

Vice Chair Montgomery asked if there were any requests for public comments. Mr. Morelock stated that the University System office had received one request to present public comments. Konstantinois Yfantis, Acting Manager, Teaching and Learning Services Group, University of Illinois, requested to address the Merit Board regarding the position of the Council of Academic Professionals regarding the proposed rule pending before the Joint Committee on Administrative Rules. Ms. Hasara made a motion to allow Mr. Yfantis to address the Merit Board regarding the above issue. Mr. Marshall seconded Ms. Hasara's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

Mr. Yfantis stated that the Academic Professionals Committee did not support the proposed rule change to section 250.30 of the Illinois Administrative Code (80 Ill. Adm. Code §250.30) and that the committee also does not support the movement of the proposed rule change to the next step in the JCAR process. Mr. Yfantis stated that he had read most of the comments received by the University System office and that only a few of the comments recommended the proposed rule changes to proceed, while the vast majority of comments were not in favor of the exemption authority being moved to a central agency. Mr. Yfantis further stated that it should be up to the department on the proper classification and that the University System is only to provide the necessary tools for the universities, not to have the responsibility to approve exempt positions for the universities. A comment/question was made regarding the large percentage of misclassified positions at UIUC during the last two audits and Mr. Yfantis responded that is what the audit program is designed to do. Other discussion among the Merit Board members took place. Per discussion, it was recommended that the University System continue to work with the universities to correct the problems and that the audit program should continue to monitor this activity.

### ***Consideration of the Minutes of the 184<sup>th</sup> Meeting of the Merit Board, May 16, 2012***

The minutes of the 184<sup>th</sup> meeting of the Merit Board, May 16, 2012 had been transmitted to members of the Merit Board with the agenda materials.

Ms. Hasara moved to approve the minutes of the 184<sup>th</sup> meeting of the University Civil Service Merit Board as modified by Vice Chair Montgomery. Mr. Young seconded Ms. Hasara's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion.

### ***Consideration of Discharge Proceeding Number SIUC-12-2 filed against Doug Chapman by Southern Illinois University Carbondale***

On August 9, 2012, the Secretary for the Merit Board mailed the Hearing Record for the Doug Chapman discharge case(SIUC-12-2) to each member of the Merit Board. The Merit Board was asked to review the case and be prepared to act on this matter at this meeting.

Vice Chair Montgomery asked Ms. Daniels to give a summary of the case. Ms. Daniels stated that Doug Chapman was a Maintenance Laborer at Southern Illinois University Carbondale (SIUC) and that Mr. Chapman had been an employee at SIUC for approximately 13 years. SIUC charged Mr. Chapman with the following:

1. on September 24, 2011, while Mr. Chapman was off-duty, he confronted his supervisor, who was on duty, where Mr. Chapman used threatening and aggressive language;
2. on October 14, 2011, Mr. Chapman was sent home due to apparent physical and mental impairment from pain medication; his supervisors deemed Mr. Chapman a safety risk;
3. in late February 2012, Mr. Chapman had a second occurrence of unauthorized or unexcused absence of less than five working days (no further information regarding first incident of unauthorized absence); and
4. on March 30, 2012, Mr. Chapman came to the workplace intoxicated; he submitted to a breathalyzer test, which showed an alcohol level of twice the legal limit.

Ms. Daniels further stated that at the discharge hearing which was held on June 12, 2012 at SIUC, and it was agreed on by the parties that only charge 4 as stated above would be considered.

Ms. Daniels gave an overview of the case and explained the "Motion to Supplement the Record or for Additional Hearing", filed by the Employer-Respondent and the "Motion to Supplement the Record" filed by the Employee-Petitioner. After discussion, a motion was made by Dr.

Webb to deny both the “Motion to Supplement the Record or for Additional Hearing” and the “Motion to Supplement the Record’. Mr. Young seconded Dr. Webb’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion.

The next issue was regarding the motions to allow the parties to address the Merit Board. A motion was made by Ms. Hasara to allow both parties, Ms. Daly (Employer) and Mr. Prendergast (Employee), to address the Merit Board. Mr. Young seconded Ms. Hasara’s motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion.

Reona Daly, Associate General Counsel for SIUC, and Brett Patton, Labor Relations for SIUC, presented oral arguments for the employer. Ms. Daly summarized a situation in which Mr. Chapman had requested emergency time off because of his son being in the emergency room. Mr. Chapman was told to present the necessary paperwork and it would be granted. When Mr. Chapman arrived at the worksite, he smelled of alcohol. Mr. Chapman did not provide any documentation that he had been in the emergency room. Mr. Chapman agreed to and tested positive for over twice the legal limit of alcohol. Mr. Chapman stated that he was not planning on working that day, even he showed up at his regular starting time of 7:00 a.m. Due to his alcohol intoxication results, Mr. Chapman was not allowed to work that day. Ms. Daly later stated that the employee was not literally told to come in the day in question to present evidence to secure authorize the day off.

Paul Prendergast, Attorney for Local 773, presented oral arguments for the employee, Doug Chapman. Mr. Prendergast simply stated that this is a burden of proof case. The charge that was utilized was developed by the university and the university had the chance to present evidence at the discharge hearing. Mr. Prendergast stated that the university provided no evidence that Mr. Chapman was intending to work that day. Mr. Prendergast indicated that the employer was in some way obligated to demonstrate this in order to discharge the employee.

After discussion, Mr. Morelock explained the fundamental limited responsibility of the Hearing Officer. The Hearing Officer is required to only determine if the prominence of facts support the alleged charges for discharge. The Merit Board then determines if the supported charges provide a just cause for discharge. The Findings of Fact of the Hearing Officer are only advisory. In this case, the Hearing Officer commented on the just cause question, but was outside her jurisdiction in doing so. After further discussion, a motion was made by Mr. Young to reinstate the employee. Mr. Cole seconded Mr. Young’s motion.

A roll call vote was taken and the motion failed with the following vote:

Mr. Young .....	Aye
Mr. Cole .....	Aye
Mr. Garcia .....	Absent
Ms. Hasara .....	No
Judge Holmes .....	Absent
Mrs. Maitland .....	Absent

Dr. Manering .....Absent  
 Mr. Marshall .....No  
 Mr. Montgomery.....Aye  
 Ms. Samuels .....No  
 Dr. Webb .....No

After further discussion, a motion was made by Ms. Samuels to reinstate the employee with a 60-day suspension. Ms. Hasara seconded Ms. Samuels' motion.

A roll call vote was taken and the motion carried with the following vote:

Ms. Samuels .....Aye  
 Dr. Webb .....No  
 Mr. Young .....No  
 Mr. Cole .....Aye  
 Mr. Garcia .....Absent  
 Ms. Hasara .....Aye  
 Judge Holmes .....Absent  
 Mrs. Maitland .....Absent  
 Dr. Manering .....Absent  
 Mr. Marshall .....Aye  
 Mr. Montgomery.....Aye

The following decision and order was therefore adopted.

## STATE OF ILLINOIS



## STATE UNIVERSITIES CIVIL SERVICE SYSTEM

<b>DOUP CHAPMAN,</b>	)	<b>BEFORE THE UNIVERSITY CIVIL</b>
	)	<b>SERVICE MERIT BOARD</b>
<b>Employee-Petitioner,</b>	)	
	)	<b>DISCHARGE PROCEEDING</b>
<b>v.</b>	)	
	)	<b>No. SIUC-12-2</b>
<b>SOUTHERN ILLINOIS UNIVERSITY Carbondale,</b>	)	
	)	
<b>Employer-Respondent.</b>	)	

## **DECISION AND ORDER OF THE UNIVERSITY CIVIL SERVICE MERIT BOARD**

### **PROCEDURAL HISTORY**

Discharge proceedings have been commenced by **SOUTHERN ILLINOIS UNIVERSITY Carbondale**, employer, against **DOUG CHAPMAN**, employee, by service of Written Charges for Discharge by certified mail on May 9, 2012 and the Employee-Petitioner, **DOUG CHAPMAN**, has filed a timely written request for Hearing. A Hearing has been duly convened, held, and concluded on June 12, 2012 in conformity with the procedures set forth in section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)). The complete Hearing Record has been certified and placed on file in this cause.

### **FINDINGS**

The University Civil Service Merit Board has examined and reviewed the Hearing Record, as supplemented, which includes the following:

1. Written Charges for Discharge, dated May 9, 2012
2. Suspension Notice Pending Discharge, dated May 9, 2012
3. Employee-Petitioner's request for a hearing filed on May 16, 2012
4. Acknowledgement of Hearing request, dated May 16, 2012
5. Notice of Hearing to Hearing Officer Green, dated June 4, 2012
6. Notice of Convening of Hearing to the parties of record, dated June 4, 2012
7. List of Witnesses and Evidence for Southern Illinois University Carbondale, filed on June 8, 2012
8. Employee-Petitioner's Exhibits, received on June 11, 2012
9. Transcript of Evidence and Exhibits, June 12, 2012
10. Brief on Behalf of Doug Chapman, filed on June 22, 2012
11. Closing Argument, filed on June 22, 2012
12. Request for Findings of Fact from Hearing Officer Green, dated June 28, 2012
13. Findings of Fact, rendered by Hearing Officer Green, dated July 13, 2012

14. Certification of Hearing Record, dated July 23, 2012
15. Motion to File an Entry of Appearance and Intervene at Merit Board Meeting; Entry of Appearance; and Motion to Supplement the Record or for Additional Hearing, filed on August 1, 2012
16. Receipt and Notice of Filing "Motion to File an Entry of Appearance and Intervene at Merit Board Meeting; Entry of Appearance; and Motion to Supplement the Record or for Additional Hearing", dated August 6, 2012
17. Petitioner's Motion to File an Entry of Appearance and Intervene at Merit Board Meeting; Entry of Appearance; and Petitioner's Motion to Supplement the Record; Response and Objection to the Respondent's Motion to File an Entry of Appearance and Intervene at Merit Board Meeting; and Response and Objection to the Respondent's Motion to Supplement the Record or for Additional Hearing", filed on August 6, 2012
18. Receipt and Notice of Filing "Petitioner's Motion to File an Entry of Appearance and Intervene at Merit Board Meeting; Entry of Appearance; and Petitioner's Motion to Supplement the Record; Response and Objection to the Respondent's Motion to File an Entry of Appearance and Intervene at Merit Board Meeting; and Response and Objection to the Respondent's Motion to Supplement the Record or for Additional Hearing", dated August 7, 2012

Now being fully advised of the matters contained in the Hearing Record, as supplemented, and based solely on the matters contained in the Hearing Record, as supplemented, the University Civil Service Merit Board makes the following jurisdictional and factual findings and issues the following Decision and Order:

1. That this discharge proceeding has been commenced and conducted in compliance with section 250.110(f) of the Illinois Administrative Code (80 Ill. Adm. Code §250.110(f)) and all applicable State and Federal Laws and that the University Civil Service Merit Board has jurisdiction of the parties and subject matter thereof.
2. That the Hearing Record, as supplemented, does not support and sustain one or more of the charges of the employer, **SOUTHERN ILLINOIS UNIVERSITY Carbondale**, against the employee, **DOUG CHAPMAN**, and/or the charges, as proven by said employer, fail to establish just cause for discharge.

**DECISION AND ORDER**

**WHEREFORE, IT IS HEREBY ORDERED:**

1. The Findings of Fact of the Hearing Officer, attached hereto, are approved and certified to the employer, **SOUTHERN ILLINOIS UNIVERSITY Carbondale**, to the extent not inconsistent with the findings made herein.
2. All other motions or requests are hereby denied.
3. The employee, **DOUG CHAPMAN**, shall be reassigned to perform the duties in a position in his classification following the completion of a 60-day suspension without pay.

**DATED AND ENTERED** this 22<sup>nd</sup> day of August, 2012.

**UNIVERSITY CIVIL SERVICE MERIT BOARD**

By: /s/ James Montgomery  
Vice Chair  
University Civil Service Merit Board

ATTEST:

/s/ Teresa M. Rademacher  
Teresa M. Rademacher  
Secretary for the Merit Board



***Update on proposed rule change to section 250.30 of the Illinois Administrative Code (80 Ill. Adm. Code §250.30)***

Mr. Morelock gave an update on the status of the proposed rule change regarding exemptions. No further action is needed at this time. The University System office will continue to look at this rule revision. Mr. Morelock further stated that included in the agenda material that was mailed to the Merit Board was an update on the most recent audit findings related to the exemption issue.

***Update and action on proposed rule change to section 250.50, Examinations of the Illinois Administrative Code (80 Ill. Adm. Code §250.50)***

Mr. Morelock gave an overview on the proposed rule change. The major substantive change is under section 250.50(h) of the Illinois Administrative Code regarding all examinations and examination components. All such records shall be retained in accordance with the employer's and/or the University System Office Record Retention Policy. This proposed rule change has been discussed with the Human Resource Advisory Committee and the Employee Advisory Committee. After discussion, Mr. Cole made a motion to approve the proposed rule revision for circulation to the universities and agencies for comment and to be published in the Illinois Register for the First Notice Period. Mr. Young seconded Mr. Cole's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

***Consideration of FY 2014 Budget Recommendations for the State Universities Civil Service System Office***

Mr. Morelock gave an overview on how on the FY 2014 was prepared. He further stated that the FY 2013 budget was set at the FY 2012 appropriation level. The FY 2013 budget was reduced by 5.6% less than the FY 2011 budget. The FY 2014 budget request is for a 4.23% or a \$52,000 increase over the FY 2013 appropriation.

After discussion, Dr. Webb made a motion to approve the FY 2014 budget request as submitted in the agenda materials and that the budget material be submitted to the Illinois Board of Higher Education to begin the budget process. Mr. Marshall seconded Dr. Webb's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

### ***Update information on the Public Officials Errors and Omissions Insurance Policy***

Mr. Morelock stated that the University System office was able to negotiate the renewal of the Public Official Errors and Omissions Insurance Policy for the Merit Board members and staff of the University System Office at a cost of \$10,500, an increase of \$1,265 over the FY 2012 rate. The University System Office was able to process the voucher for payment, with the help of the Governor's Office, in the prescribed time frame as required by the vendor.

### ***Update on audit issues at the University of Illinois at Chicago***

Mr. Morelock updated the Merit Board on the recent reports the agency had received from the University of Illinois at Chicago (UIC) regarding the various audit issues. The Job Analysis Report for vacant academic professional positions indicated the following new academic professional positions that were approved by UIC for the following months:

- April 2012 – 28 positions
- May 2012 – 13 positions
- June 2012 – 13 positions

The Monthly Conversions of Academic Professional Positions to Civil Service Positions Report indicated the following;

- April 2012 – 8 positions were converted to Civil Service
- May 2012 – 95 positions were converted to Civil Service
- June 2012 – 10 positions were converted to Civil Service

### ***Biennial Audit Program – Review of Recent Activities***

Mr. Morelock updated the Merit Board on the Final Audit Reports that had been completed since the last Merit Board meeting. Following are the audits that had been completed and are posted on the University System Office website:

- *Southern Illinois University Carbondale*
- *Western Illinois University*
- *University of Illinois at Urbana-Champaign*

### ***Report of the Executive Director***

Executive Director Morelock provided an agency report which included the following items:

- Agency's budget:
  - FY 2012 and FY 2013 – yearly expenditures were included in the agenda materials;
- Recent classification/examination changes; and
- Information regarding interagency activities with a list of University/Agency visits included in agenda materials.

### ***Report of the State Universities Civil Service Advisory Committee – Julie Benedict, Chair***

The Merit Board heard a report from Julie Benedict, Chair of the State Universities Civil Service Advisory Committee. The Committee last met on July 19 and 20, 2012 at Illinois State University (ISU). Three new members were seated. Ms. Parks and Ms. Benedict are working on plans for a combined HR and EAC meeting in 2013. Currently the members are looking at several new projects. The committee will continue to monitor the exemption of positions through the audit process and will continue to work with the HR departments. The committee support the proposed rule change to the exemption approval process. The next meeting of the committee will be held in October, along with the Council of Council meeting. The Council of Council meeting is a one day conference with the various councils from the universities.

### ***Report of the Human Resource Directors Advisory Committee – Maureen Parks***

The Merit Board heard a report from Maureen Parks, representative of the Human Resource Directors Advisory Committee. Ms. Parks stated that the group last met in July 2012. The committee reviewed the proposed rule change regarding the examination retention period, section 250.50 of the Illinois Administrative Code. The committee is currently looking at another Demonstration Project that would involve issues with non-recurring money that involve grants and special funding. Currently when funding ends, civil service employees have bumping rights to other positions across the campus and this can cause major concerns with the various departments. Ms. Parks further stated that the HR group does not support the proposed rule change to the exemption approval process and does not support moving the proposed rule change to section 250.30 of the Illinois Administrative Code to the next step.

### ***Report of Legal Counsel – Abby K. Daniels, Manager, Legal Services and Legal Counsel***

Ms. Daniels updated the Merit Board on some outstanding legal matters. During FY 2012 there were 58 Written Charges for Discharge served on employees at the various universities and agencies. Ten of those employees requested a hearing. Following is a summary of the outcome of the cases:

- 3      Resigned before Hearing --** (Sperry/UICMR, Martin/ISU, Kirkham/WIU)
- 1      Resigned during Hearing --** (Gonzalez/UIC)
- 3      Settlement Agreement during hearing –** (Roper/SIUC, Overstreet-Udeen/CSU, Scott/SIUC))
- 2      Reinstated with 60-day Suspension –** (Marshall/CSU, Chapman/SIUC – took action at this meeting)
- 1      Discharged –** (Vickers/NIU)

Thus far during FY 2013, there have been 0 Written Charges for Discharge served on employees at the various universities and agencies. Three employees are carry overs from FY 2012. Following is a summary of the outcome of the cases:

- 1      Employee withdrew request before Hearing –** (Tillman/UIC)
- 1      Settlement Agreement during hearing –** (Kaufman/ISU)
- 1      Pending –** (Mays-Campbell/UIUC)

Ms. Daniels updated the Merit Board on the pending Administrative Review Case, Michael Rettig.

- **Rettig Administrative Review Case** – the Appellate Court upheld the Merit Board’s decision of discharging Mr. Rettig from Northern Illinois University. A copy of the Order of May 18, 2012 was included in the agenda materials.

Ms. Daniels reminded the Merit Board of the requirement to complete the online Open Meetings Act training.

### ***Other Items as Presented***

The next meeting of the Merit Board will be on Wednesday, November 14, 2012 at the University System Office, with videoconference locations in the Chicago and Carbondale area. Ms. Hasara made a motion to adjourn the meeting. Mr. Marshall seconded Ms. Hasara’s motion. A voice vote was taken and approved. The meeting adjourned at 11:30 a.m.

Respectfully submitted,

*/s/ Teresa M. Rademacher*

Teresa M. Rademacher  
Secretary for the Merit Board

APPROVED:

*/s/ Joanne Maitland*

Chair, University Civil Service Merit Board

November 14, 2012

Date